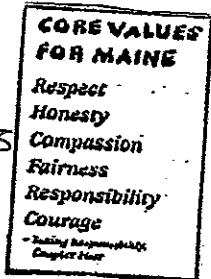


To: Commission on Governmental Ethics and Election Practices

Re: Invitation to Comment on Proposed Rule Amendments
Public Hearing held on Wednesday, February 29, 2012
at 9:00 am. under Agenda Item #4



MAR 09 2012

As Concerned Citizens, we have enclosed the following comments:

Chapter I: SECTION 4. INITIATION OF PROCEEDINGS

② C. "Any person may make an official complaint

① Add: and/or request for an Audit for a Commission investigation..."

"A copy of the signed request may be filed by facsimile or by

② Cross off: electronic mail, because e-mails are not included in the files and Agendas, and e-mails don't include signatures, unlike a fax is signed and telephone number is disclosed. There have been secret, undisclosed emails, between Executive Director and Lawfirm which the Content is unethical. All previous e-mails must be in candidate files and disclosed under FOA and the public's right to know,

③ Add: The Ethics Commission must never destroy faxes, as this violates the Freedom of Access laws. It was explained, this happened in the Candidate Katz investigation, that the fax was destroyed.

④ Add: The candidate(s) shouldn't be entitled to the complaint, until after all the interviews are conducted by the Executive Director and the staff. The interviews must be documented in writing, including questions asked, to avoid past errors. The interviews must include: Candidate, Campaign Staff, Treasurer, Vendors and Complainant (not excluded, as in our complaint.) All interviews must be included in the investigation and Agenda, as public information (not hidden from the public).

⑤ Add: The staff must disclose their names and signatures, regarding findings of fact. The

To: Commission on Governmental Ethics and Election Practices
(cont)

Findings of Fact must be based on facts, not fabrications by the candidate, to get away with violations of the MCEA. The Executive Director must fully investigate complaints, based on the merits and proof provided.

⑥ The Director may conduct..

Cross off: preliminary

fact finding

Add: for

presentation to the Commission"

⑦ "The Director, in consultation with Counsel, will prepare a summary of staff findings and recommendations"

Cross off: for inclusion

Add: "with 100% full disclosure of the investigation on the Agenda, for the public's right to know..

⑧ Add: In requests for investigations, where there are direct conflicts of interest with the Chair and/or members of the Commission, the individual as an obligation to recuse themselves immediately on the record and inform the Executive Director of recusal in writing. If the Chair and/or members of the Commission have direct conflicts of interest (ie. their clients or business partners) they must recuse themselves. The remaining commissioners must appoint an Interim Chair until the investigation is completed, to prevent conflicts of interest.

2E ⑨ Cross off: "The signature of a person to"

Add: The Treasurer and Candidate must sign all campaign reports, for completeness and accuracy. There must be a hard copy of all reports, in the candidates files, for public inspection.

To Commission on Governmental Ethics and Election Practices (cont)

2E ⑨ cont

Cross off: the rest of 2E.

Additional Information:

The campaign finance reports must be physically signed by the Treasurer and the Candidate within 5 days after emailed to the commission. The purpose for signing reports is to hold the Treasurer and candidate jointly responsible for the accuracy of the reports. This would prevent the practice of appointing a Treasurer in name only, with no intention of the Treasurer filing the campaign reports. This would assist the Ethics Commission in determining the candidates who are filing their own reports, as the Treasurer. It would assist in enforcing the new rule that candidates can't act as their own Treasurer. In some past investigations, Treasurers were not interviewed or required to attend commission meetings for violations of MCEA. Treasurers must be held accountable for campaign reports, including testifying at the Ethics Commission, so both the Candidate and Treasurer are held accountable for violations, including both being fired, if violations have occurred. How can this commission stop violations of MCEA, if you don't hold Treasurers and Candidates accountable and responsible, for filing false finance reports? The MCE funds are the people's money and the public expects the commission to enforce its rules and laws, in every investigation.

3. Lobbyist Disclosure Procedures

A. Report Review: The Commission staff will review

Lobbyist registration

Cross off: and

"monthly reports"

Add: and annual reports

(3)

To: Commission on Governmental Ethics and Election Practices
(Cont)

"for compliance with disclosure requirements..."

"The Commission staff will establish a reasonable deadline

Add: of 15 days

which a lobbyist must remedy any apparent omission or error. If the lobbyist fails to respond by the deadline,

cross off: the Commission staff may extend the deadline by which the lobbyist must comply or may place the

Add: it will be on the agenda of the next commission meeting, with fines for the violation.

cross off: "Additionally, the Commission staff...

remedied the violation."

Additional Information: If a lobbyists refuses to comply with the first deadline, chances are they won't comply with the second deadline either. A deadline means a time certain, not keep extending the deadline, until the lobbyist decides to comply.

Add: Lobbyists must sign a hard copy of all reports and mail to Ethics Commission within 5 days of filing reports. As a matter of public record, any Lobbyist who resigns must do so in writing, a written statement to the Ethics Commission, the moment they stop lobbying, (not three months later). A phone call is not acceptable notice, it must be in writing. No lobbyists maybe hired or appointed as head of any State Agency.

B. Late Registrations and Reports

"Notice will be given by mail to any lobbyist who registration

Cross off: or

Add: monthly disclosure reports or annual report

TD: Commission on Governmental Ethics and Election Practices
(Cont)

is late

Add: A penalty of \$200.00 will be assessed for first month late and \$300.00 for each month afterwards that reports are late.

Additional Information: It must be specified in the rules what the penalties will be if they choose to file late reports. If the penalty is not specifically stated in the rules, then what incentive do lobbyists have to file reports in a timely manner? This commission values too many penalties for violations. It sends a strong message that the Ethics Commission is not enforcing the MCEA and they loose credibility and the public's trust. Lobbyists are professional, well paid individuals who must follow the rules and the laws. The role of this commission must be to encourage good behavior and stop violations of the MCEA. By the commission having its own penalties, this goes directly against the intent of "clear elections" to be clean.

In addition, the lobbyists are praised at the legislature for their institutional knowledge, but we understand they have to be reminded to file their reports on time, at the Ethics Commission. Lobbyists are professionals and they should need reminding to file reports on time, as this is a waste of time and resources of state money, especially in these tough, economic times.

C. Suspensions: The Commission may suspend...
Cross off: report or pay an assessed fee.

Add: all reports and annual report or pay a fine.

To: Commission on Governmental Ethics and Election Practices (cont)

F. Filing Daily Executed Lobbyist Registration Reports

"Any registration or report required by 3 MRSA

Chapter 15 may be provisionally filed by transmission
of a facsimile copy

Add: and backed up in the U.S. Mail by an
original signed and dated reports and
annual reports, to the Commission within
5 days.

SECTION 6 CONTRIBUTIONS AND OTHER RECEIPTS

10. Cross off: "Funds or services received solely for the purpose of conducting activities to determine whether an individual should become a candidate are not contributions if the individual whether an individual should become a candidate are not contributions... accordance with the Commission's procedure for reporting contributions."

Cross off: "Funds or services used by an individual for activities indicating that he or she has decided... as a candidate or taking action to qualify for the ballot."

Add: Any funds or services used by a candidate whether they run for office or not, is considered a contribution and must be reported in campaign finance reports.

Additional Information: The moment candidates collect money, they have 5 days to report it to the Ethics Commission. Then this Section 6 should be identical. By taking money, you make a commitment, to run for office.

To: Commission on Governmental Ethics and Election Practices
(cont)

SECTION 7. EXPENDITURES

1. "Expenditures by Consultants, Employees, and other Agents of a Political Campaign. Each expenditure made on behalf of a candidate, political committee or... or assisting the candidate"

Cross off, the candidate's committee,

Add: and

"or the political action committee must be reported separately by"

Cross off: candidate

Add: Treasurer

"or incurred by the candidate or committee directly."

Cross off "the report must include the name of the third party vendor... or payee for campaign-related goods and services.

Add: Section 7 1A as follows:

All expenditures for candidates must be made exclusively by the candidate and reported to the Treasurer, immediately. No third party vendors are allowed.

Additional Information:

No candidate should go 100 miles out of their district, to purchase political signs, by a vendor, to avoid paying sales taxes, to the State of Maine. There must be no vendors involved in designing signs and/or traveling thousands of miles for primary and general election, for free. It gives an unfair advantage, to these candidates.

To {Commission on Governmental Ethics and Election Practice
(cont)}

who deliberately circumvent the Maine Clean
Election laws and financially it saves these
candidates thousands of dollars in campaign
related goods and services and cheats the
taxpayers of Maine by not paying sales taxes.
These practices gives an unfair advantage,
over the opponents who follow the MCEA
and pay sales taxes on goods and services.
The moment the Ethics Commission is notified,
in writing that sales taxes are not being paid,
in any campaign and/or campaign finance reports,
the Commission must request the Treasurer(s)
to amend the campaign finance reports,
to correct violations. In addition, the
Ethics Commission must contact the Maine
Revenue Service to report non-payment of
sales taxes, in any campaign and obtain
proof that the sales taxes are paid to
Maine Revenue Services, by proof of cancelled
check.

3 Timing of Reporting Expenditures

Add: Under A & B: Candidates must not pickup
any order without paying for it. If sales
taxes are not on the invoice, then
immediately request an amended invoice,
prior to paying for goods and/or services,
to insure sales taxes are paid. All
candidates must sign invoices, as proof
of delivery.
Additional Information: This will prevent candidates
from claiming they didn't know sales taxes were

To: Commission on Governmental Ethics and Election Practices
(cont)

paid for campaign signs, in previous election.

4. Advance Purchases of Goods and Services for the General Election

This section has been entirely crossed off.

We object to this, because it will allow candidates to purchase goods in one campaign

(i.e. primary), to use in the general election.

(We are requesting this section to be reinstated.)

6. Cross off: this entire section

Add: All expenditures, including bank fees and travel must be paid in both the primary and general election, not at the end of the campaign. There are candidates who wait until the end of the campaign and attempt to use up all of the campaign funds by fudging the travel log to pay themselves when in fact, they are paying their volunteers (without naming them in campaign reports). When the Ethics Commission finds that travel is not accounted for as campaign expense (due to lack of documentation), then Candidates must reimburse the Ethics Commission. When the Auditor determines mileage is not authorized, the candidate must return the Clean Elections money, no matter who the candidate is.

To: Commission on Governmental Ethics and Election Practices (cont)

8. Cross off: The entire two paragraphs

Add: All money expended for political office is construed as an expenditure, whether a candidate ultimately runs or not for public office, within 5 days.

Additional Information: Within 5 days of collecting signatures and donations, candidates must report this activity to the Ethics Commission. This is no different than what is already in the rules.

9. Exceptions to Disclaimer Requirements for Certain Handbills, Campaign Signs and Internet or E-Mail Communications

Cross off: The entire Section 9 A & B

10. Press Exemption

Cross off: The entire Section 10

SECTION 10 REPORTS OF INDEPENDENT EXPENDITURES

3. Reporting Schedules

(1) Quarterly Reports

We object to crossing off Quarterly Reports and request that Section 15 be reinstated.

Cross off: (1-A) and (1-B) and paragraph below it regarding independent expenditures

Additional Information: Quarterly reports assure that receipts won't be lost and the public's right to know regarding expenditures throughout the campaign.

To: Commission on Governmental Ethics and Election Practices (cont)

Add: All independent expenditures must be reported quarterly and signed and dated by the individual who made the expenditure.

Chapter 3:

Section 6. LIMITATIONS ON CAMPAIGN EXPENSES

A. Certified candidate must:

1. "Limit the candidate's campaign expenditures and obligations to the applicable Clean Election Act Fund distribution amounts"

Add: and must not overspend MCE funds.

5. Cross off: This section must be crossed off
After an election is over, there is no need
to spend anymore of the taxpayers money.

Add: Candidates may use their own money
to send thank you notes.

Section 7. RECORD KEEPING AND REPORTING

1. Cross off: Participating and Certified

Add: All

"candidates and their treasurers must comply with applicable record keeping requirements."

Add: The commission must require the return of MCE funds, under Title 21-A.

B. Meal Expenses

Cross off: This section must be crossed off.

C. Vehicle Travel Expenses

Add (at the very end): "expenses for which reimbursement are (11) made" on Mandatory Travel Log.

To: Commission on Governmental Ethics and Election Practices (cont)

C. Vehicle Travel Expenses (cont)

(1) Amount of Reimbursement.

Cross off: The entire section 1.

Add: Reimbursement must be the standard rate prescribed by the State of Maine. A volunteer is only entitled to \$100.00 reimbursement, in the primary and \$100.00, in the general election.

(2) Contents of Records. "For each trip for which reimbursement is made, a record must be maintained showing the

Add: mileage start and end odometer reading. The mileage must be maintained in the mandatory mileage log, with

the dates of travel, the number of miles traveled, ... The person seeking the reimbursement must have recorded the details of the campaign travel

Add: on the same day, for accuracy of the records.

Cross off: contemporaneously with the travel or within two calendar days afterward.

Add: The candidate and the Treasurer must sign the Travel Log, as proof of accuracy, of the record.

2. Reporting by Participating and Certified Candidates.

A. General.

Cross off: Participating and certified candidates

Add: All candidates must go by their real names,

(and must comply with applicable reporting...)"

To: Commission on Governmental Ethics and Election Practices (cont)

In Conclusion, we have enclosed our recommendations, to the Ethics Commission, to strengthen the MCEA. Our concerns are that there are candidates, especially those in the last election cycle, who are not complying with the Maine Clean Election Act, are overspending and not properly documenting mileage on the Travel Log. We contend the travel log must be mandatory and the Odometer reading (start and end) should be recommended. It should be required. As a state, we must be frugal with the taxpayer's money, to protect the integrity of clean elections. For many years, the Ethics Commission used to be extremely strict, in enforcing the laws and rules. A case in point is the Chris McCarthy case, in which an Independent was fined \$10,000 (approximately), but in the last few years, candidates appear to make their own deals and a \$100.00 fine is reduced 50% to \$50.00. This sends the message to candidates that you can break as many laws as you want and the maximum fine is \$50.00. There are candidate(s) that should reimburse the Ethics Commission for overspending, not paying taxes (sales taxes) and unacceptable reimbursement of travel and the commission refuses to do their job. By not enforcing the MCE Act and rules, it sends the wrong message, that the Ethics Commission doesn't enforce the Act. It's time the Ethics Commission, enforces the MCEA and does their job, for the people of Maine.